GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

DEPARTMENT OF TRIBAL WELFARE - Revision Petition filed by Sri. Datla Venkatapathiraju, S/o. late Venkatapathiraju @ Mugaraju, R/o. Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharama Raju District erstwhile East Godavari District against the orders of the Additional Agent to Government in CMA No.25/91 dated:06.01.1992 in respect of land admeasuring Acs.15.85 Cts in Sy.Nos.32/1 & 32/2 at Dakarai Village, Rajavommangi Mandal, Alluri Sitharama Raju District erstwhile East Godavari District - Allowed - Orders - Issued.

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DEPARTMENT OF TRIBAL WELFARE

G.O.MS.No.13 **Dated:15.03.2024**

Read the following:

1. Petition filed by Sri Datla Venkatapathiraju, S/o. late Venkatapathiraju @ Mugaraju, R/o. Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharama Raju District erstwhile East Godavari District dated:22.01.2005.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.25/1991, dated:06.01.1992.

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ORDER:

In the reference 1st read above, Sri. Datla Venkatapthiraju, S/o. late Venkatapathiraju @ Mugaraju, R/o. Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharama Raju District erstwhile East Godavari District against the orders of the Additional Agent to Government in CMA No.25/91 dated:06.01.1992 in respect of land admeasuring Acs.15.85 Cts in Sy.Nos.32/1 & 32/2 at Dakarai Village, Rajavommangi Mandal, Alluri Sitharama Raju District erstwhile East Godavari District.

2. Brief history of the subject case:

I. The Deputy Tahsildar (TW), Rajavommangi Mandal filed a complaint Under Section 3 of the APSA Land Transfer Regulation 1/59 as amended by Land Transfer Regulation 1/70 on behalf of the Petitioners therein for restoration of the Petition schedule land in R.S.Nos. 32/1 and 30/2 measuring an extent of Ac. 15.85 of Dakarai Village to the petitioners from the respondents. The petition was numbered as LTRP No.81/1990.

II. After due enquiry, by following due process, the then Special Deputy Collector, Tribal Welfare, Rampachodavaram, has ordered for decree ejectment of the respondent therein from the Petition schedule land and it to be restored to the petitioners therein, who are the legal heirs of the registered settlement pattadars vide LTRP No.81/1990, Dt:21.02.1991 and the case is allowed.

III. Aggrieved with the above orders of the then Deputy Collector, Tribal Welfare, Rampachodavaram, Sri. Datla Venkatapathi Raju S/o (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal has filed an appeal before the Agent to Government and Collector, East Godavari District seeking an order or direction to Set-aside the orders of the Deputy Collector (TW), Rampachodavaram issued in the above LTRP case and request to issue an order not to evict the appellant from the Petition Schedule Land.

IV. The Agent to Government and Collector, East Godavari District, Kakinada while allowing the appeal, made out the following issues from out of the pleadings of both the parties and based on the material placed before the court and the records available in the case.

1) The appeal schedule lands are situated in the scheduled area of Dakarai Village, Rajavommangi Mandal of Alluri Seetharama Raju District, erstwhile East Godavari District.

2) As per settlement Register 1932-35 of Dakarai Village the Sy.No 32/1, Ac.3.20 Cts and the Sy.No.30/2, Ac.12.60 Cts (Total measuring Ac. 15.85 Cts) were registered in the name of Jarugudu Atchayya (who is the Grandfather of the Petitioner Sri Jarugudu Pandayya).

3) The Appellant's father Sri. Datla Venkatapathi Raju, S/o. Nagaraju (Appellant's father) purchased the petition schedule lands along with some others lands from Smt. Pappula Rajamma, W/o. Balayya and others vide registered Sale deed No.1112 of 1941 dated:30.10.1941. This transaction is covered by the permission granted by the Revenue Divisional Officer, Peddapuram in his D.Dis.3815/41, Dt:30.6.1941. Later the lands were devolved to their legal heirs.

4) As the matter stood thus, Sri. Jarugudu Pandayya, S/o. Chinnayya and Jarugudu Satyanarayana, S/o.Kanakayya have filed a complaint against Sri. Datla Venkatapathi Raju, S/o. Nagaraju before the Special Deputy Collector (TW) Rampachodavaram and requested to restore the Petition Schedule lands in their favour.

5) The then Deputy Collector, Rampachodavaram duly observed and consider the following points before issuing the orders.

A. The Petitioner Sri Jarugudu Pandayya S/o Chinnayya and other belong to Konda Kapu community, and as per settlement Register the Petition Schedule lands were registered in the name of Jarugudu Atchayya who was the grandfather of petitioner.

B. The petitioner deposed that his grandfather Jarugudu Atchayya sold the Petition Schedule land to the respondent Sri Datla Venkatapathi Raju S/o Nagaraju belong to Raju by caste and resident of Lakshmi Narasapuram Village of Anaparthi Mandal, for Rs. 30/- about 25 years back.

C. But, the appellant Sri Datla Venkatapathi Raju S/o Nagaraju has deposed that the Petition scheduled lands were purchased by his father Sri Datla Venkatapathi Raju S/o Nagaraju from Smt. Pappula Rajamma W/o Balayya vide registered Sale deed No. 1112 of 1941 Dt:30.10.1941. With permission from the Revenue Divisional Officer, Peddapuram vide D.Dis. 3815/41, Dt:30.6.1941.

D. The respondent deposed that Smt Pappula Rajamma W/o Balayya of Sarabhavaram has no relation with them or with the Petition schedule land. It is not clear how Pappula Rajamma which was came into possession of the Petition schedule land registered in the name of Jarugudu Atchayya.

E. P. Rajamma has no right over the plaint schedule land and the sale transaction entered by her has no legal sanctity. Moreover, from the above it is clear that P. Rajamma has been a binami for the appellant's father to acquire the tribal lands. The sale transaction, vide totally & void as P. Rajamma has no title over the land.

F. The plaint schedule land stands registered in the name of Respondent's grandfather but, later it is in the possession of the Non- tribal appellant. Thus transfer of land has taken place without permission of the Agent or Assistant Agent from the tribal petitioner's grandfather to the respondent's

father (Non- tribal) and is thus & void U/s. 4(1) of Act of 1/17 read with Sec.3(1) of A.P. Land Transfer Regulation 59.

G. Moreover it is to be noted that the appellant is not doing self-cultivation of the land and the cultivation is being done by one Radha Krishna Varma@ Krishnam Raju of Sarabhavaram Village, who is Non- tribe, Raju by caste. Attention is drawn to Sec.2(g) of A.P. Land Transfer Regulation 1959 wherein transfer means mortgage, lease, sale, gift, exchange or any other dealing with immovable property.

H. Previously one Jerugudu Kannayya, (brother of 1st respondent and father of the 2nd respondent) has filed L.T.R.P.68/77, which was dismissed on the basis of Revenue Divisional Officer, Peddapuram permission, it is to be noted that in the earlier proceedings fresh fact that the Settlement Pattadar Jarugudu Atchayya was not noted and also that the seller of the land P.Rajamma had no title over the land which she sold. Thus clearly the earlier order which did not consider these facts do not operate as Res-judicata. The High Court in W.P.6065/79, Order Dt:29.12.1985 observed that the mere fact that at an earlier occasion a petition was dismissed does not confer any right so long as the statutory order subsists, viz., the void transaction subsists. The present Land Transfer Regulation Petition has been tried on the fresh facts which were not considered in the earlier proceedings and hence the earlier orders do not operate as Resjudicata.

I. Considering the above facts, the then Deputy Collector, Tribal Welfare, Rampachodavaram, has passed orders for decree ejectment of the respondent therein from the Petition schedule land and it to be restored to the petitioners therein, who are the legal heirs of the registered settlement pattadars vide LTRP No.81/1990, Dt:21.02.1991 and the case is allowed.

3. Aggrieved by the above orders, the Revision Petitioner Sri. Datla Venkatapathiraju, S/o. late Venkatapathiraju @ Mugaraju, filed a Revision Petition before the Government and requested the Hon'ble Court may be pleased to set-aside the orders passed by the courts below in C.M.A.No.25/1991, dated:06.01.1992 on the file of the Additional Agent to Government, Rampachodavaram while confirming the orders in L.T.R.P.No.81/1990, dated:21.02.1991 on the file of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District and pass such other order or orders as are deemed fit or proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated:27.10.2023 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.25/1991, dated.06.01.1992 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 28.10.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted dated:27.10.2023 by the Project Officer cum Additional Agent to the Government, ITDA, Rampachodavaram Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

i. This Memorandum of Revision Petition is filed by Sri Datla Venkatapathi Raju, S/o. (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal against the orders of the Agent to Government and District Collector, East Godavari District Kakinada passed in CMA No. 25/1991, Dated:06.01.1992 under the provisions of AP Scheduled Area Land Transfer

Regulations 1 of 59 as amended by 1 of 70 while upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No. 81/1990, dated:21.02.1991 in respect of lands in Sy. Nos.32/1 and 30/2 measuring an extent of Ac.15.85 cts of Dakarai Village of Rajavommangi Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the respondent therein from the Petition Scheduled land and restoration of the same to the Petitioners therein, who are the legal heirs of the registered settlement pattadars.

ii. The matter came up for hearing finally before the Revision Authority on 28.10.2023 in the presence of Counsel for the Revision Petitioner and the Special Deputy Collector (TW) and Special Deputy Tahsildar (TW), ITDA, Rampachodavararm, the Additional Agent to Government furnished Para wise remarks in the matter. The Counsel for the Revision Petitioner also submitted written arguments. After perusing the material papers available in the file the following order is made.

iii. The Revision Petitioner contends that the original petitioner Datla Venkatapathi raju died on dated:07-06-2007 leaving his wife the present Revision Petitioner Smt. Datla Padmavathi as a legal heir and that the permission of the Revenue Divisional Officer, Peddapuram was granted in F.D is 3815 /41 dated:30-06-41 for the subject lands purchased on 30-04-1941 under registration sale deed No.1112/41 by the father of the deceased petitioner Sri Datla Venkatapathi raju and that the lands have been in enjoyment of the Revision Petitioner here in and that earlier case in LTRP No. 68/77 on 02-06-1977 enquired on the same facts was dismissed and that jumping in to conclusion that Smt. Puppala Rajamma and others have no legal rights to sell the schedule lands to non-tribals and permission granted by Revenue Divisional Officer permitting Smt. Puppala Rajamma has no legal sanction and that the Revision Petitioner is not doing self cultivation of the schedule, lands etc. are all not tenable and that there is no prohibited transfer involved in the case under the Regulations 1 of 70 and requested to set aside the orders passed by the Agent to Government, the then East Godavari District in the C.M.A.No.25/1991 and pass such other or further orders in the matter.

iv. The contention of the Additional Agent to Government is that as per the settlement register of Dakarai Village of Rajavommangi Mandal, the Petition schedule lands in Sy.Nos.32/1 measuring Ac.3.25 Cts and 30/2 measuring Ac.12.60 Cts were registered in the name of Jarugudu Atchayya, and said lands were purchased by Sri Datla Venkatapathi raju, S/o.Nagaraju from Smt. Pappula Rajamma of Sarabhavaram Village through a registered Sale deed bearing No.1112/41 on 11.01.1941 after obtaining permission from Revenue Divisional Officer Peddapuram on 30.08.1941 and that however it is not clear, how Smt. P.Rajamma came into possession of the Petition schedule lands when the land stood over in the name of Sri Jarugudu Atchayya and that Smt. P.Rajamma has no right over the Petition schedule and that the sale transaction took place between Smt. P.Rajamma and Sri. Datla Venkatapathi raju has no legal sanctity and that the order passed by the Agent to Government is in accordance with the provisions of Land Transfer Regulations and requested to dismiss the Revision Petition.

v. As seen from the impugned order of the Agent to Government/District Collector of the then East Godavari District who passed the impugned order observed that the "While adducing evidence on behalf of the Appellant the advocate for the appellant has failed to explain as to how Smt. P. Rajamma came in possession of the petition schedule lands. Moreover the permission stated to have been granted by the Assistant Agent Vide order of the Revenue Divisional Officer, Peddapuram dated:30.06.1941 for sale of the petition schedule lands by Smt. P. Rajamma does not indicate the name of the purchaser. The circumstances under which the permission was given are also not indicated in the order. Consequently it is difficult to accept the legality of

the sale from Smt. Pappula Rajamma to the father of the Appellant. Hence the Appeal petition is dismissed and the orders of the Lower Court are confirmed."

vi. As per the Para wise remarks submitted by the Additional Agent to Government, that the subject lands are not under cultivation of the purchasers of the lands and lands are under occupation of some other non- tribal namely Sri. Radha Krishna Varma @ Krishnam Raju of Sarabhavaram Village, which attract further to the provision of Set 2(g) of A.P. Land Transfer Regulation 1959 as amended by 1 of 70 wherein transfer means mortgage, lease, sale, gift, exchange or any other dealing with immovable property. The said transfer effected between non-tribals after the commencement of Land Transfer Regulations 1 of 70 is and void.

vii. During an enquiry one Smt. Vantala Bangaramma and Sri Janumuru Aditya Reddy filed a third party petition who are said to have been STs seeking to uphold the impugned orders passed by the Agent to Government in CMA No 25/1931.

viii. The background of cases and rival submissions coupled with orders below and Para wise remarks and third party petitions give rise to following point for consideration.

ix. The only question arises from the pleadings of the above is that whether the permission granted by the Revenue Divisional Officer, Peddapuram vide D.Dis.381 5/41, Dt:30.6.1941 giving effect to the sale held between Sri. Datla Venkatapathi Raju and Pappala Rajamma is valid under the provisions of AP Agency Area Land Transfer Act 1 of 1917 and subsequent Land Transfer Regulations 1 of 59 or not?

x. Section 4 (1) of AP Agency Area Land Transfer Act 1917, affirms that" Not with standing any rule of law enactment to the contrary, any transfer of immovable property situated within the Agency Tracts by a member of a hill tribe shall be absolutely and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer".

xi. Agency Tracts Interest and Land Transfer Act, 1917 is an Act to regulate rate of interest and transfer of land in agency tracts. The prohibition imposed with certain restrictions on the 'tribals' restraining them from transferring lands and properties to 'non- tribals' is understandable inasmuch as the objective is to ensure that the total extent of properties held by the tribals is not diminished.

xii. As seen from the documents that the permission which was granted to Pappula Rajamma by the Revenue Divisional Officer, Peddapuram under Act 1917 to sell the lands is valid under the provisions of AP Agency Area Land Transfer Act 1 of 1917 and subsequent Land Transfer Regulations 1 of 59.

xiii. The order of the Revenue Divisional Officer Peddapuram vide D.Dis 3815 /41 dated:30.06.1941 under Section 4 of the Act 1 of 1917 clear revels that said Rajamma had possession over the lands having right to sell the same and failure to produce the link document shall not be taken in to consideration that she failed to explain as to how she came into possession of the lands. It is evident that as per the permission that revenue authority concluded the title possession and enjoyment over the lands.

xiv. It is pertinent that earlier also a case was filed by the one Jarugudu Kannayya with regard to the self same lands in LTRP 68/77 and enquiry the same was dismissed on the basis of Revenue Divisional officer's permission on dated:02.06.1977 which itself shows that the permission is valid as per Act.

xv. The burden is on the non-tribal purchaser who purchased the subject lands in the scheduled area from a tribal to prove that he purchased lands without any violation of section 4 of the Act 1 of 1917 and subsequent Land Transfer Regulations 1959.

xvi. In view of the above, and facts and circumstances of the case, it must be held that Smt. Pappula Rajamma who executed Registered Sale deed bearing No.1112, Dt:11.10.1941 was a member of a scheduled tribe and the transfer in favour of Sri. Datla Venkatapathi raju by obtaining a valid permission of the Revenue Divisional Officer vide F.Dis 3815 /41 dated:30-06-1941 under Section 4 of the Act 1 of 1917 is valid and petitioner discharged his burden by producing relevant documents.

xvii. In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby allowed. The impugned order Passed by the Agent to Government, East Godavari District in CMA No.25/1991, Dt:06-01-1992 upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No.81/1990, dated:21.02.1991 in respect of lands in Sy. Nos.32/1 and 30/2 measuring an extent of Ac.15.85 cts of Dakarai Village of Rajavommangi Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the non-tribals respondents and restoration of the same to the Petitioners therein is hereby set- aside. As a sequel interim orders if any passed in the matter are hereby confirmed. Accordingly, the Revision Petition is here by allowed.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition, filed by the Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District is hereby allowed. Therefore the impugned order Dated:06.01.1992 passed by the Agent to Government in CMA No.25/1991, Dt.06.01.1992 upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No.81/1990, Dated:21.02.1991 in respect of lands in Sy. Nos.32/1 & 32/2 measuring an extent of Ac.15.85 cts of Dakarai Village, Rajavommangi Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the non tribals respondents and restoration of the same to the Petitioners therein is hereby set-aside. As a sequel interim orders if any passed in the matter are hereby confirmed. Accordingly, the Revision Petition is here by allowed.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN - 530 011.
The Additional Agent to Government cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288

The Tahsildar, Rajavommangi Mandal,
Alluri Sitharamaraju District Pin.533 428
Sri Kola Satya Prasad,
Advocate, Near RTC Bus Stand,
Rampachodavaram, Alluri Sitha Ramaraju District, PIN-533288.
Sri Datla Venkatapathiraju, S/o. late Venkatapathiraju @ Mugaraju,
Lakshminarasapuram Village,
Anaparthi Mandal, Alluri Sitha Ramaraju District PIN-533 450

Copy to:

The OSD to Hon'ble Deputy Chief Minister (TW).
The P.S. to Principal Secretary to Government (TW).
The Commissioner of Printing and Stationary
Muthyalampadu, Vijayawada,
Krishna District, Andhra Pradesh, PIN. 520 011.
(for publication in the AP Gazette)
SF/SCs.

// FORWARDED :: BY ORDER //

M. Srinivasa Rao
SECTION OFFICER